IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CWP No.10202 of 2007
Date of decision: 12. 7.2007

Surinder Kumar Roy

...Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Mr. SS Chandi, Advocate, for the petitioner.

**JUDGMENT:**

This petition seeks injunction against promotion of respondent No.4 to the post of Accountant.

Case of the petitioner is that he was working as a Mandi Supervisor and was a candidate for promotion to the post of Accountant in accordance with the Punjab Market Committees (Class III) Service Rules, 1989. In the meeting of the Departmental Promotion Committee (DPC) held on 20.4.2007, name of respondent No.4 has been recommended solely on the basis of seniority without considering the petitioner who, though junior, was more meritorious.

A reference to recommendation of DPC, Annexure P.5 shows that recommendation of respondent No.4 has been made on the basis of seniority-cum-merit. There is nothing to show that the petitioner had higher merit or respondent No.4 had lesser merit. The recommendation specifically mentions that principle of seniority-cum-merit has been kept in mind.

The principle of seniority-cum-merit postulates that given the minimum necessary merit requisite for efficiency of the administration, the senior even though less meritorious, shall have priority. Reference may be made to the law laid down by the Hon'ble Supreme Court in **B.V. Sivaiah v. K. Addanki Babu,** AIR 1998 SC 2565, wherein it was observed:-

> "18. We thus arrive at the conclusion that the criterion of 'seniority-cum-merit' in the matter of promotion postulates that given the minimum necessary merit requisite for efficiency of administration the senior, even though less meritorious, shall have priority and a comparative assessment of merit is not required to be made. For assessing the minimum necessary merit the competent authority can lay down the minimum standard that is required and also prescribe the mode of assessment of merit of the employee who is eligible for consideration for promotion. Such assessment can be made by assigning marks on the basis of appraisal of performance on the

basis of service record and interview and prescribing the minimum marks which would entitle a person to be promoted on the basis of seniority-cum-merit."

In view of above, we do not find any merit in this petition and the same is dismissed.

(Adarsh Kumar Goel)
Judge

July 12, 2007 (Ajai Lamba)
'gs' Judge